

46 Am. Jur. 2d Judges § 104

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Judges

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IX. Disqualification to Act in Particular Case

B. Grounds for Disqualification

2. Interests as Grounds for Disqualification

b. Particular Interests as Grounds for Disqualification

(3) Association with Organization or Business

§ 104. Judge's status as stockholder of corporation as grounds for disqualification

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[Disqualification of judge because of his or another's holding or owning stock in corporation involved in litigation, 25 A.L.R.3d 1331](#)

The general rule is that stockholding by a judge constitutes disqualification where the interests of the corporation in which he or she is a stockholder are involved in the litigation instituted or pending before the judge.¹ The most frequently applied limitation on the general rule of judicial disqualification through shareholding is that the "interest" of a stockholding judge in any pending matter may be too remote to be disqualifying, either because the stockholding is economically insignificant or because the involved corporation is merely indirectly or abstractly interested in the litigation.²

A judge is not disqualified where the corporation of which he or she is a stockholder is dismissed as a party before he or she takes any judicial action in the case.³ Likewise, a judge is not disqualified from hearing a case concerning a party in which he or she was a stockholder where the judge divests him- or herself of the stock prior to litigation.⁴

Caution:

The Code of Judicial Conduct provides that judges must not engage in the financial activities permitted under the Code, regarding investments and business activities, if they will lead to frequent disqualification of the judge.⁵

Reminder:

Pursuant to the Code of Judicial Conduct, for purposes of determining whether a judge should be disqualified due to having an economic interest in the subject matter of the proceeding, an "economic interest" means ownership of more than a de minimis legal or equitable interest. Except for situations in which the judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include: (1) an interest in the individual holdings within a mutual or common investment fund; (2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge's spouse, domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant; (3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or (4) an interest in the issuer of government securities held by the judge.⁶

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Footnotes

- 1 [Central Telephone Co. of Virginia v. Sprint Communications Co. of Virginia, Inc.](#), 715 F.3d 501 (4th Cir. 2013); [Dacey v. Connecticut Bar Ass'n](#), 184 Conn. 21, 441 A.2d 49 (1981); [Fuelberg v. State](#), 410 S.W.3d 498 (Tex. App. Austin 2013).
A judge erred in failing to recuse himself from a foreclosure suit brought by a condominium association where the judge owned controlling shares of stock in the bank in which the association was a substantial depositor both before and during the trial. [Zoline v. Telluride Lodge Ass'n](#), 732 P.2d 635 (Colo. 1987).
- 2 [MDCM Holdings, Inc. v. Credit Suisse First Boston Corp.](#), 205 F. Supp. 2d 158 (S.D. N.Y. 2002); [Adams v. McGehee](#), 211 Ga. 498, 86 S.E.2d 525 (1955).
- 3 [Holland v. Morgan & Peacock Properties Co.](#), 168 Cal. App. 2d 212, 335 P.2d 773 (1st Dist. 1959).
- 4 [Com. v. Keigney](#), 3 Mass. App. Ct. 347, 329 N.E.2d 778 (1975); [Sullivan v. Bucks County](#), 92 Pa. Commw. 213, 499 A.2d 678 (1985).
- 5 A.B.A. Code of Judicial Conduct, Canon 3, Rule 3:11(C)(2).

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